

## NOTICE

CIGARETTE TAX AND TOBACCO TAX LAW  
Chapter 245, Parts I and II, Hawaii Revised Statutes  
§712A-5 and §712A-16, Hawaii Revised Statutes  
Establishes a System for Imposing the Tax Upon Cigarettes Through the Use of Stamps

DATE: DECEMBER 20, 2000  
TO: TOBACCO DISTRIBUTORS

Chapter 245, Parts I and II, Hawaii Revised Statutes (HRS) was passed in the 2000 Regular Legislative Session and signed by Governor Cayetano on June 19, 2000. The effective date is June 19, 2000.

INTRODUCTION: This law establishes a system for imposing the tax upon cigarettes through the use of stamps. The Department of Taxation shall adopt rules describing the method and manner in which stamps are to be affixed to packages of cigarettes, and shall furnish stamps for sale to licensees. Enforcement of this statute shall be under the jurisdiction of the Department of the Attorney General. Every wholesaler or dealer shall file a monthly report (showing distribution of cigarettes and purchases of stamps during the preceding month) and a monthly return (showing the cigarettes and tobacco products sold, possessed, or used during the preceding calendar month and the taxes chargeable against the taxpayer in accordance with this chapter) with the department of taxation.

### **CHAPTER 245, PART I, GENERAL PROVISIONS:**

#### **§245-1 DEFINITIONS.**

§245-1, HRS is amended by adding **twelve new definitions** to the existing definitions (**attorney general**, cigarette, **cigarette package**, dealer, **department**, **falsely alter**, **falsely make**, **falsely reuse**, **license**, **licensee**, persons, **prosecuting attorney**, retail price, **sale**, sale or sold, **sell**, **stamp**, tobacco products, tobacco tax, wholesale price and wholesaler).

#### **§245-2 LICENSE.**

It shall be unlawful for any person to engage in the business of a wholesaler or dealer in the State without having received first a license therefor issued by the department of taxation under this chapter; provided that this section shall not be construed to supersede any other law relating to licensing of persons in the same business.

The license shall be issued by the department upon application therefor, in such form and manner as shall be required by rule of the department, and the payment of a fee of \$2.50, and shall be renewable annually on July 1 for the twelve months ending the succeeding June 30.

#### **§245-3 TAXES.**

(a) Every wholesaler or dealer, in addition to any other taxes provided by law, shall pay for the privilege of conducting business and other activities in the State:

- (1) an excise tax equal to five cents for each cigarette sold, used, or, possessed by a wholesaler or dealer after June 30, 1998, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; and
- (2) An excise tax equal to forty percent of the wholesale price of each article or item of tobacco products sold by the wholesaler or dealer, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

Where the tax imposed has been paid on cigarettes or tobacco products which thereafter become the subject of a casualty loss deduction allowable under Chapter 235, HRS, the tax paid shall be refunded or credited to

the account of the wholesaler or dealer. The tax shall be applied to cigarettes through the use of stamps.

(b) The taxes, however, are subject to the following limitations:

- (1) The measure of the taxes shall not include any cigarettes or tobacco products exempted, and so long as the same are exempted, from the imposition of taxes by the Constitution or laws of the United States;
- (2) The measure of taxes shall exempt and exclude all sales of cigarettes and tobacco products to the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under this chapter), sold by any person licensed under this chapter; and
- (3) The taxes shall be paid only once in respect of the same cigarettes or tobacco product. This limitation shall not prohibit the imposition of the excise tax on receipts from sales of tobacco products under subsection (a)(2); provided that the amount subject to the tax on each sale shall not include amounts previously taxed under this chapter.

**§245-4 REPEALED.**

**§245-5 RETURNS.**

Every wholesaler or dealer, on or before the last day of each month, shall file with the department a return showing the cigarettes and tobacco products sold, possessed, or used by the wholesaler or dealer during the preceding calendar month and of the taxes chargeable against the taxpayer in accordance with this chapter. The form of the return shall be prescribed by the department and shall include:

- (1) A separate statement of the number and wholesale price of cigarettes;
- (2) The amount of stamps purchased and used;
- (3) The wholesale price of tobacco products sold, possessed, or used; and
- (4) Any other information that the department may deem necessary, for the proper administration of this chapter.

**§245-6 PAYMENT OF TAXES; PENALTIES.**

At the time of the filing of the return required under §245-5, HRS, each wholesaler or dealer shall pay to the department the taxes imposed by this chapter, required to be shown by the return, including the unpaid amount of taxes imposed by this chapter. Penalties and interest shall be added to and become a part of the taxes, when and as provided by §231-39.

**§245-7 DETERMINATION OF TAXES; ADDITIONAL ASSESSMENTS, CREDITS, AND REFUNDS.**

- (a) As soon as practicable after each return shall have been filed, the department of taxation shall cause it to be examined and shall compute and determine the amount of the taxes payable thereon.
- (b) If it should appear upon the examination or within five years after the filing of the return, or at any time if no return has been filed, as a result of the examination, or as a result of any examination of the records of the wholesaler or dealer, or of any other inquiry or investigation, that the correct amount of the taxes is greater than that shown on the return, or that any taxes imposed by this chapter have not been paid, an assessment of the taxes may be made in the manner provided in §235-108(b), HRS. The amount of the taxes for the period covered by the assessment shall not be reduced below the amount determined by an assessment so made, except upon appeal or in a proceeding brought pursuant to §40-35, HRS.
- (c) If the wholesaler or dealer has paid or returned with respect to any month more than the amount determined to be the correct amount of taxes for the month, the amount of the taxes so returned and any assessment of taxes made pursuant to the return may be reduced, and any overpayment of taxes may be credited upon the taxes imposed by this chapter, or at the election of the wholesaler or dealer not being delinquent in the payment of any taxes owing to the State, may be refunded in the manner provided in §231-23(c); provided that no reduction of taxes may be made when forbidden by subsection (b) or more than five years after the filing of the return.

**§245-8 RECORDS TO BE KEPT.**

(a) Each wholesaler or dealer shall keep a record of:

- (1) Every sale or use of cigarettes and tobacco products by the wholesaler or dealer;
- (2) The number and wholesale price of cigarettes;
- (3) The wholesale price of tobacco products sold, possessed, or used;
- (4) The taxes payable on tobacco products sold, possessed, or used; and
- (5) The amounts of stamps purchased and used, in a form as the department may prescribe.

The records shall be offered for inspection and examination at any time upon demand by the department or attorney general, and shall be preserved for a period of five years, except that the department and attorney general, in writing, shall both consent to their destruction within the five-year period or either the department or attorney general may require that they be kept longer. The department, by rule, may require the wholesaler or dealer to keep other records as it may deem necessary for the proper enforcement of this chapter.

(b) If any wholesaler or dealer fails to keep records from which a proper determination of the taxes due under this chapter may be made, the department may fix the amount of the taxes for any period from the best information obtainable by it and assess the taxes as provided in this chapter.

**§245-9 INSPECTION.**

The department and attorney general may examine all records, including tax returns and reports under §245-31, required to be kept or filed under this chapter, and books, papers, and records of any person engaged in the business of wholesaling or dealing cigarettes and tobacco products, to verify the accuracy of the payment of the taxes imposed by this chapter. Every person in possession of any books, papers, and records, and the person's agents and employees, are directed and required to give to the department and attorney general the means, facilities, and opportunities for the examinations.

**§245-10 APPEALS.**

Any person aggrieved by any assessment of the taxes imposed by this chapter may appeal from the assessment in the manner and within the time and in all other respects as provided in the case of income tax appeals by §235-114; provided that, for appeals other than to the district board of review, the taxes so assessed shall have been paid. The hearing and disposition of the appeal, including the distribution of costs and of taxes paid pending the appeal, shall be as provided in chapter 232.

**§245-11 CHAPTER 235 AND CHAPTER 237 APPLICABLE.**

All of the provisions of chapter 235 and chapter 237 not inconsistent with this chapter and which may appropriately be applied to the taxes, persons, circumstances, and situations involved in this chapter, including (without prejudice to the generality of the foregoing) provisions as to penalties and interest, and provisions granting administrative powers to the department of taxation, and provisions for the assessment, levy, and collection of taxes, shall be applicable to the taxes imposed by this chapter, and to the assessment, levy, and collection thereof.

**§245-12 INVESTIGATIONS; CONTEMPTS; FEES.**

The director of taxation, and any agent of the director duly authorized by the director to conduct any inquiry, investigation, or hearing hereunder, shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the director, the director or the director's agent authorized to conduct the hearing may subpoena witnesses and require the production of books, papers, and documents pertinent to the inquiry. No witness under subpoena authorized to be issued by this section shall be excused from testifying or from producing books or papers on the ground that such testimony or the production of such books or other documentary evidence would tend to incriminate the witness, or subject the witness to penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing concerning which the person shall, under oath, have testified or produced documentary evidence.

Contempts. If any person disobeys such process or, having appeared in obedience thereto, refuses to answer

any pertinent question put to the person by the director or the director's authorized agent, or to produce any books and papers pursuant thereto, the director or such agent may apply to the circuit court of the circuit wherein the taxpayer resides or wherein the transaction, act, or activity under investigation has occurred, or to any judge of such court, setting forth such disobedience to process or refusal to answer, and the court or the judge shall cite such person to appear before the court or the judge to answer such question or to produce such books and papers and, upon the person's refusal so to do, shall commit such person to jail until the person shall testify, but not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the director may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify.

Fees. Officers who serve subpoenas issued by the director or under the director's authority, and witnesses attending hearings conducted by the director hereunder, shall receive like fees and compensation as officers and witnesses in the circuit courts of the State, to be paid on vouchers of the director, from any moneys available for litigation expenses of the department of taxation.

**§245-13            ADMINISTRATION BY DIRECTOR; RULES AND REGULATIONS.**

The administration of this chapter is vested in the director of taxation, who may prescribe and enforce rules and regulations for the enforcement and administration of this chapter.

The rules and regulations shall be prescribed by the director, subject to chapter 91.

**§245-14            REPEALED.**

**§245-15            DISPOSITION OF REVENUES.**

All moneys collected pursuant to this chapter shall be paid into the state treasury as state realizations to be kept and accounted for as provided by law, except for the amounts designated by §245-41 for distribution to the attorney general.

**CHAPTER 245, PART II, STAMPING OF CIGARETTES**

**§245-21            PAYMENT OF TAX THROUGH USE OF STAMPS; EXEMPTIONS.**

(a) The tax imposed under §245-3, HRS, upon the sale or use of cigarettes shall be paid by licensees through the use of stamps.

(b) The department may provide by rule that the tax imposed under §245-3, HRS, upon the sale or use of cigarettes may be paid without the use of stamps in connection with a particular type of transaction.

**§245-22            AFFIXATION; REQUIRED PRIOR TO DISTRIBUTION; METHOD AND MANNER.**

(a) Beginning January 1, 2001, a licensee shall affix a stamp to the bottom of each package of cigarettes prior to distribution.

(b) Beginning April 1, 2001, no package of cigarettes may be sold or offered for sale to the general public unless affixed with the stamp required under this statute.

(c) Beginning April 1, 2001, no cigarette package may be placed or stored in a vending machine unless stamped.

(d) The department shall adopt rules describing the method and manner in which stamps are to be affixed to packages of cigarettes.

**§245-23            DEPARTMENT TO FURNISH STAMPS; DESIGNS, SPECIFICATIONS, AND DENOMINATIONS; PROCUREMENT.**

The department shall furnish stamps for sale to licensees. Stamps shall be of such designs, specifications, and denominations as may be prescribed by the department. Purchase by the department of stamps from a vendor shall be exempt from the requirements of Chapter 103D, HRS.

**§245-24 SALES THROUGH FINANCIAL INSTITUTIONS.**

The department may enter into agreements to permit the sale of stamps by designated financial institutions located within the State. A list of financial institutions designated to sell stamps shall be made available at the department.

**§245-25 PURCHASE OF STAMPS; WHEN, BY LICENSEE OR DESIGNEE.**

- (a) A licensee may apply to the department to purchase stamps beginning December 15, 2000.
- (b) A licensee may authorize a designee to order purchases of stamps for the licensee at a location where stamps are sold. Authorization of a designee shall be in writing. The written authorization shall continue in effect until written notice of revocation of the authority is delivered at the sales location in the manner prescribed by rule.

**§245-26 PRICE; PAYMENT; DEFERRED PAYMENT PURCHASES.**

- (a) Stamps shall be sold at their denominated values, plus a stamp fee of 1.7 per cent of the denominated value of each stamp sold, composed of the aggregate of:
  - (1) 0.2 percent of the denominated value to pay for the cost to the State of providing the stamps; and
  - (2) 1.5 percent of the denominated value to pay for the cost of enforcing the stamp tax.provided that the department by rule may modify the stamp fee to reflect actual costs incurred by the State in providing the stamps.
- (b) Payment for stamps shall be made at the time of purchase; provided that payment may be deferred pursuant to §245-27.

**§245-27 MAXIMUM AMOUNT OF DEFERRED-PAYMENT PURCHASES; BOND.**

- (a) A licensee may apply to the department to set the maximum amount of deferred-payment purchases of stamps that may remain unpaid by the licensee during the time specified under §245-28. Upon receipt of the application and any bond required pursuant to subsection (b), the department shall set the amount for deferred-payment purchases.
- (b) The department may require that a licensee who submits an application for deferred-payment purchases of stamps post a bond in an amount of up to one hundred per cent of the maximum amount of allowed deferred-payment purchases as a condition of approval of the application.

**§245-28 TIME FOR PAYMENT OF DEFERRED-PAYMENT PURCHASES; MANNER OF PAYMENT.**

Amounts owing for stamps purchased on the deferred-payment basis in any calendar month shall be due and payable on or before the last day of the following calendar month. Payment shall be made by a remittance payable to the department.

**§245-29 SUSPENSION OR REDUCTION OF PRIVILEGE TO PURCHASE ON DEFERRED-PAYMENT BASIS.**

The department may suspend the privilege or may reduce the amount of deferred-payment purchases if:

- (1) The licensee fails to promptly pay for stamps when payment is due;
- (2) The bond or bonds required are canceled, or become void, impaired, or unenforceable for any reason; or
- (3) In the opinion of the department, collection of any amounts unpaid or due is jeopardized.

**§245-30 PENALTY FOR FAILURE TO MAKE TIMELY PAYMENT.**

A licensee who fails to pay any amount owing for the purchase of stamps within the time required shall pay:

- (1) Ten percent of the amount due in addition to the amount due; and
- (2) Interest at the rate specified in §231-39, HRS, from the date on which the amount became due until payment.

**§245-31 MONTHLY REPORT ON DISTRIBUTIONS OF CIGARETTES AND TOBACCO PRODUCTS, AND PURCHASES OF STAMPS.**

- (a) On or before the last day of each month, every licensee shall file on forms prescribed by the department:
- (1) A report of the licensee's distributions of cigarettes and purchases of stamps during the preceding month; and
  - (2) Any other information that the department may require to carry out this statute.
- (b) On or before the last day of each month, every licensee shall file on forms prescribed by the department:
- (1) A report of the licensee's distributions of tobacco products and the wholesale costs of tobacco products during the preceding month; and
  - (2) Any other information that the department may require to carry out this statute.

**§245-32 TAX REFUND OR CREDIT FOR CIGARETTES AND TOBACCO PRODUCTS SHIPPED FOR RESALE OR USE OUTSIDE THE STATE.**

- (a) The department shall adopt rules to provide a tobacco tax refund or credit to a licensee who has paid a tobacco tax on the distribution of cigarettes or tobacco products that are shipped to a point outside the State for subsequent sale or use outside the State.
- (b) The part shall not apply to cigarettes or tobacco products that are distributed in this State to consumers and that are subsequently taken outside the State.

**§245-33 UNUSED STAMPS; CANCELLATION OF STAMPS.**

The department shall adopt rules for a refund or credit to a licensee in the amount of the denominated values of any unused stamps. The department may provide by rule for the cancellation of stamps.

**§245-34 APPROVAL OF DEPARTMENT REQUIRED FOR TRANSFER OF STAMPS.**

Unaffixed stamps shall not be sold, exchanged, or in any manner transferred by a licensee to another person without prior written approval of the department. Any person who violates this section shall be subject to a fine of not less than \$500 and not more than \$1,000 for each violation.

**§245-35 UNLICENSED POSSESSION OR USE OF STAMPS.**

A person who is not licensed under this chapter and who knowingly possess or uses a stamp shall be guilty of a class B felony.

**§245-36 COUNTERFEITING STAMPS.**

A person shall be guilty of a class B felony if the person:

- (1) Intentionally or knowingly makes, alters, or reuses a stamp as defined in §245-1, HRS; or
- (2) Knowingly possesses or distributes a stamp that has been falsely made, altered, or reused.

**§245-37 SALE OR PURCHASE OF PACKAGES OF CIGARETTES WITHOUT STAMPS; FINES AND PENALTIES.**

- (a) Beginning April 1, 2001, a person shall be guilty of a class C felony if the person:
- (1) Is not a licensee, and knowingly possesses, keeps, stores, acquires, or transports three thousand (15 cartons) or more cigarettes that do not have stamps affixed to the packages as required by this statute; or
  - (2) Knowingly sells one thousand (5 cartons) or more cigarettes that do not have stamps affixed to the packages as required by this statute.
- (b) Beginning April 1, 2001, a person shall be guilty of a misdemeanor if the person:
- (1) Is not a licensee, and knowingly possesses, keeps, stores, acquires, or transports one thousand (5 cartons) or more cigarettes that do not have stamps affixed to the packages as required by this statute; or
  - (2) Knowingly sells less than one thousand (5 cartons) cigarettes that do not have stamps affixed to the packages as required by this statute.

(c) In addition to any other authorized disposition, a corporation found in violation of subsection (a) is subject to a fine not to exceed \$50,000; and in violation of subsection (b) is subject to a fine not to exceed \$25,000.

**§245-38 VENDING UNSTAMPED CIGARETTES.**

(a) Beginning April 1, 2001, any person who knowingly places for sale in a cigarette vending machine any cigarettes not contained in cigarette packages to which are affixed stamps as required by this statute, shall be guilty of a class C felony.

(b) In addition to any other authorized disposition, a corporation found in violation of subsection (a) may be fined in an amount not to exceed \$50,000.

**§245-39 PENALTY EXEMPTIONS.**

(a) §§245-37 and 245-38 shall not apply to cigarettes that are exempt from taxes as provided by §245-3(b).

(b) §§245-37 and 245-38 shall not apply to the resale of tax-exempt cigarettes that were purchased from sales outlets operated under the regulations of the Armed Services of the United States.

**§245-40 FORFEITURES; DISPOSITION.**

Any cigarette, package of cigarette, package of cigarettes, or carton of cigarettes unlawfully possessed, kept, stored, acquired, transported, or sold in violation of this part may be ordered forfeited pursuant to Chapter 712A.

**§245-41 ENFORCEMENT; INJUNCTION; DISPOSITION OF FINES.**

(a) Enforcement of this part shall be under the jurisdiction of the attorney general.

(b) Notwithstanding the existence of other remedies at law, the attorney general may apply for a temporary or permanent injunction restraining any person from violating or continuing to violate this part. The injunction shall be issued without bond.

(c) Where the attorney general initiates and conducts an investigation resulting in the imposition and collection of a criminal fine pursuant to this part, on hundred per cent of the fine shall be distributed to the attorney general; provided that if the attorney general engages the prosecuting attorney for the investigation or prosecution, or both, resulting in the imposition and collection of a criminal fine under this part, the fine shall be shared equally between the attorney general and the prosecuting attorney.

**§245-42 RULES.**

The department shall adopt rules pursuant to Chapter 91 to implement this part.

**FORFEITURE**

**§712A-5 PROPERTY SUBJECT TO FORFEITURE; EXEMPTION.**

(1) The following is subject to forfeiture:

(a) Property described in a statute authorizing forfeiture;

(b) Property used or intended for use in the commission of, attempt to commit, or conspiracy to commit a covered offense, or which facilitated or assisted such activity;

(c) Any firearm which is subject to forfeiture under any other subsection of this section or which is carried during, visible, or used in furtherance of the commission, attempt to commit, or conspiracy to commit a covered offense, or any firearm found in proximity to contraband or to instrumentalities of an offense;

(d) Contraband or untaxed cigarettes in violation of Chapter 245, HRS, shall be seized and summarily forfeited to the State without regard to the procedures set forth in this chapter;

(e) Any proceeds or other property acquired, maintained, or produced by means of or as a result of the commission of the covered offense;

- (f) Any property derived from any proceeds which were obtained directly or indirectly from the commission of a covered offense;
  - (g) Any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which has been established, participated in, operated, controlled, or conducted in order to commit a covered offense;
  - (h) All books, records, bank statements, accounting records, microfilms, computer data, or other data which are used, intended for use, or which facilitated or assisted in the commission of a covered offense, or which document the use of the proceeds of a covered offense.
- (2) Except that:
- (a) Real property, or an interest therein, may be forfeited under the provisions of this chapter only in cases in which the covered offense is chargeable as a felony offense under state law;
  - (b) No property shall be forfeited under this chapter to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge and consent of that owner;
  - (c) No conveyance used by any person as a common carrier in the transaction of a business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
  - (d) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent; and
  - (e) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission.

**§712A-16 DISPOSITION OF PROPERTY FORFEITED.**

- (1) All property forfeited to the State under this chapter shall be transferred to the attorney general who:
  - (a) May transfer property, other than currency, which shall be distributed in accordance with subsection (2) to any local or state government entity, municipality, or law enforcement agency within the State;
  - (b) May sell forfeited property to the public by public sale; provided that for leasehold real property:
    - (i) The attorney general shall first offer the holder of the immediate reversionary interest the right to acquire the leasehold interest and any improvements built or paid for by the lessee for the then fair market value of the leasehold interest and improvements. The holder of the immediate reversionary interest shall have thirty days after receiving written notice within which to accept or reject the offer in writing; provided that the offer shall be deemed to be rejected if the holder of the immediate reversionary interest has not communicated acceptance to the attorney general within the thirty-day period. The holder of the immediate reversionary interest shall have thirty days after acceptance to tender to the attorney general the purchase price for the leasehold interest and any improvements, upon which tender the leasehold interest and improvements shall be conveyed to the holder of the immediate reversionary interest.
    - (ii) If the holder of the immediate reversionary interest fails to exercise the right of first refusal provided in subparagraph (i), the attorney general may proceed to sell the leasehold interest and any improvements by public sale.
    - (iii) Any dispute between the attorney general and the holder of the immediate reversionary interest as to the fair market value of the leasehold interest and improvements shall be settled by arbitration pursuant to Chapter 658, HRS.
  - (c) May sell or destroy all raw materials, products, and equipment of any kind used or intended for use in manufacturing, compounding, or processing a controlled substance or any untaxed cigarettes in violation of Chapter 245, HRS.
  - (d) May compromise and pay valid claims against property forfeited pursuant to this chapter; or May make any other disposition of forfeited property authorized by law.

(2) All forfeited property and the sale proceeds thereof, up to a maximum of three million dollars per year, not previously transferred pursuant to subsection (1)(a) of this section, shall, after payment of expenses of administration and sale, be distributed as follows:

- (a) One quarter shall be distributed to the unit or units of state or local government whose officers or employees conducted the investigation and caused the arrest of the person whose property was forfeited or seizure of the property for forfeiture;
- (b) One quarter shall be distributed to the prosecuting attorney who instituted the action producing the forfeiture; and
- (c) One half shall be deposited into the criminal forfeiture fund established by this chapter.

(3) Property and money distributed to units of state and local government shall be used for law enforcement purposes, and shall complement but not supplant the funds regularly appropriated for such purposes.

(4) There is established in the department of the attorney general a revolving fund to be known as the criminal forfeiture fund, hereinafter referred to as the "fund" in which shall be deposited one-half of the proceeds of a forfeiture and any penalties paid pursuant to §712A-10(6). All moneys in the fund shall be expended by the attorney general and are hereby appropriated for the following purposes:

- (a) The payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to this chapter or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property and such contract services and payments to reimburse any federal, state, or county agency for any expenditures made to perform the foregoing functions;
- (b) The payment of awards for information or assistance leading to a civil or criminal proceeding;
- (c) The payment of supplemental sums to state and county agencies for law enforcement purposes; and
- (d) The payment of expenses arising in connection with programs for training and education of law enforcement officers.

(5) The attorney general may, without regard to the requirements of chapter 91, promulgate rules and regulations concerning the disposition of property, the use of the fund, and compromising and paying valid claims against property forfeited pursuant to this chapter.

(6) Not less than twenty days prior to the convening of each regular session, the attorney general shall provide to the legislature a report on the use of the Hawaii omnibus criminal forfeiture act during the fiscal year preceding the legislative session. The report shall include:

- (a) The total amount and type of property seized by law enforcement agencies;
- (b) The total number of administrative and judicial actions filed by prosecuting attorneys and the disposition thereof;
- (c) The total number of claims or petitions for remission or mitigation filed in administrative actions and the dispositions thereof;
- (d) The total amount and type of property forfeited and the sale proceeds thereof;
- (e) The total amount and type of property distributed to units of state and local government;
- (f) The amount of money deposited into the criminal forfeiture fund; and
- (g) The amount of money expended by the attorney general from the criminal forfeiture fund under subsection (5) and the reason for the expenditures.

Questions concerning these laws should be directed to:

State of Hawaii  
Department of the Attorney General  
Tax Division - Tobacco Enforcement Unit  
425 Queen Street  
Honolulu, Hawaii 96813  
(808) 586-1470